

## **Chapter 17**

### **Utah Noxious Weed Act**

#### **4-17-1 Short title.**

This chapter shall be known and may be cited as the "Utah Noxious Weed Act."

Enacted by Chapter 126, 1981 General Session

#### **4-17-2 Definitions.**

As used in this chapter:

- (1) "Commission" means the county legislative body of the counties of this state.
- (2) "Commissioner" means the commissioner of agriculture and food or the commissioner's representative.
- (3) "County noxious weed" means any plant which is not on the state noxious weed list, is especially troublesome in a particular county, and is declared by the county legislative body to be a noxious weed within its county.
- (4) "Noxious weed" means any plant the commissioner determines to be especially injurious to public health, crops, livestock, land, or other property.

Amended by Chapter 82, 1997 General Session

#### **4-17-3 Commissioner -- Functions, powers, and duties.**

The commissioner has the following powers and duties:

- (1) investigates and designates noxious weeds on a statewide basis;
- (2) compiles and publishes annually a list of statewide noxious weeds;
- (3) coordinates and assists in inter-county noxious weed enforcement activities;
- (4) determines whether each county complies with this chapter;
- (5) assists a county which fails to carry out the provisions of this chapter in its implementation of a weed control program;
- (6) prescribes the form and general substantive content of notices to the public and to individuals concerning the prevention and control of noxious weeds;
- (7) compiles and publishes a list of articles capable of disseminating noxious weeds or seeds and designate treatment to prevent dissemination; and
- (8) regulates the flow of contaminated articles into the state and between counties to prevent the dissemination of noxious weeds or seeds.

Amended by Chapter 18, 1985 General Session

#### **4-17-3.5 Creation of State Weed Committee -- Membership -- Powers and duties -- Expenses.**

- (1) There is created a State Weed Committee composed of eight members, with each member representing one of the following:
  - (a) the Department of Agriculture and Food;
  - (b) the Department of Natural Resources;
  - (c) the Utah State University Agricultural Experiment Station;
  - (d) the Utah State University Extension Service;
  - (e) the Utah Association of Counties;
  - (f) private agricultural industry;

- (g) the Utah Weed Control Association; and
  - (h) the Utah Weed Supervisors Association.
- (2) The commissioner shall select the members of the committee from those nominated by each of the respective groups or agencies following approval by the Agricultural Advisory Board.
- (3)
- (a) Except as required by Subsection (3)(b), as terms of current committee members expire, the commissioner shall appoint each new member or reappointed member to a four-year term.
  - (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.
- (4)
- (a) Members may be removed by the commissioner for cause.
  - (b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (5) The State Weed Committee shall:
- (a) confer and advise on matters pertaining to the planning, implementation, and administration of the state noxious weed program;
  - (b) recommend names for membership on the committee; and
  - (c) serve as members of the executive committee of the Utah Weed Control Association.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 461, 2013 General Session

#### **4-17-4 County Weed Control Board -- Appointment -- Composition -- Terms -- Removal -- Compensation.**

- (1) Each county executive of the counties may, with the advice and consent of the county legislative body, appoint a county weed control board comprised of not less than three nor more than five appointed members.
- (2)
- (a) If the county legislative body is the county commission, the chair of the county legislative body shall appoint one member of the county legislative body who shall act as a coordinator between the county and the weed board.
  - (b) If the county legislative body is a county council, the county executive shall serve on the county weed control board and act as coordinator between the county and the weed board.
- (3) Two members of the board shall be farmers or ranchers whose primary source of income is derived from production agriculture.
- (4) Members are appointed to four year terms of office and serve with or without compensation as determined by each county legislative body.
- (5) Members may be removed for cause and any vacancy which occurs on a county weed control board shall be filled by appointment for the unexpired term of the vacated member.

Amended by Chapter 227, 1993 General Session

**4-17-4.5 Commissioner may require county weed control board to justify failure to enforce provisions.**

If the commissioner determines that the weed control board of any county has failed to perform its duties under this chapter, the commissioner may require the board to justify, in writing, its failure to enforce these provisions within its county.

Enacted by Chapter 18, 1985 General Session

**4-17-5 County weed control board responsible for control of noxious weeds -- Cooperation with other county boards -- Authority to designate noxious weed -- Public hearing before removal of noxious weed from state list.**

- (1) A county weed control board is responsible, under the general direction of the county executive, for the formulation and implementation of a county-wide coordinated noxious weed control program designed to prevent and control noxious weeds within its county.
- (2) A county weed control board is required, under the general direction of its commission, to cooperate with other county weed control boards to prevent and control the spread of noxious weeds.
- (3) A county legislative body may declare a particular weed or competitive plant, not appearing on the state noxious weed list, a county noxious weed within its county, or the county executive, with the approval of the county legislative body, may petition the commissioner for removal of a particular noxious weed from the state noxious weed list. The county legislative body may not approve a petition of the county executive to the commissioner to remove a noxious weed unless it has first conducted a public hearing after due notice.

Amended by Chapter 227, 1993 General Session

**4-17-6 Weed control supervisor -- Qualification -- Appointment -- Duties.**

- (1)
  - (a) Each commission may employ one or more weed control supervisors qualified to:
    - (i) detect and treat noxious weeds; and
    - (ii) direct the weed control program for the county weed board.
  - (b) A person may be a weed control supervisor for more than one county weed board.
  - (c) Terms and conditions of employment shall be prescribed by the commission.
- (2) A supervisor, under the direction of the local county weed control board, shall:
  - (a) examine all land under the jurisdiction of the county weed control board to determine whether this chapter and the rules adopted by the department have been met;
  - (b) compile data on infested areas;
  - (c) consult and advise upon matters pertaining to the best and most practical method of noxious weed control and prevention;
  - (d) render assistance and direction for the most effective control and prevention;
  - (e) investigate violations of this chapter;
  - (f) enforce noxious weed controls within the county; and
  - (g) perform any other duties required by the county weed control board.

Amended by Chapter 179, 2007 General Session

**4-17-7 Notice of noxious weeds to be published annually in county -- Notice to particular property owners to control noxious weeds -- Methods of prevention or control specified -- Failure to control noxious weeds considered public nuisance.**

- (1) Each county weed control board before May 1 of each year shall post a general notice of the noxious weeds within the county in at least three public places within the county and publish the same notice on:
  - (a) at least three occasions in a newspaper or other publication of general circulation within the county; and
  - (b) as required in Section 45-1-101.
- (2) If the county weed control board determines that particular property within the county requires prompt and definite attention to prevent or control noxious weeds, it shall serve the owner or the person in possession of the property, personally or by certified mail, a notice specifying when and what action is required to be taken on the property. Methods of prevention or control may include definite systems of tillage, cropping, use of chemicals, and use of livestock.
- (3) An owner or person in possession of property who fails to take action to control or prevent the spread of noxious weeds as specified in the notice is maintaining a public nuisance.

Amended by Chapter 378, 2010 General Session

**4-17-8 Noxious weeds -- Failure to control after notice a nuisance -- Notice and hearing -- Control at county expense -- Owner liable for county costs -- Charges lien against property.**

- (1) If the owner or person in possession of the property fails to take action to control or prevent the spread of noxious weeds within five working days after the property is declared a public nuisance, the county may, after reasonable notification, enter the property, without the consent of the owner or the person in possession, and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds.
- (2) Any expense incurred by the county in controlling the noxious weeds is paid by the property owner of record or the person in possession of the property, as the case may be, within 90 days after receipt of the charges incurred by the county. If not paid within 90 days after notice of the charges, the charges become a lien against the property and are collectible by the county treasurer at the time general property taxes are collected.

Amended by Chapter 18, 1985 General Session

**4-17-8.5 Hearing before county weed control board -- Appeal of decision to the county legislative body -- Judicial review.**

- (1) Any person served with notice to control noxious weeds may request a hearing to appeal the terms of the notice before the county weed control board within 10 days of receipt of such notice and may appeal the decision of the county weed control board to the county legislative body.
- (2) Any person served with notice to control noxious weeds who has had a hearing before both the county weed control board and the county legislative body may further appeal the decision of the county legislative body by filing written notice of appeal with a court of competent jurisdiction.

Amended by Chapter 227, 1993 General Session

**4-17-10 Jurisdiction of state and local agencies to control weeds.**

The departments or agencies of state and local governments shall develop, implement, and pursue an effective program for the control and containment of noxious weeds on all lands under their control or jurisdiction, including highways, roadways, rights-of-way, easements, game management areas, and state parks and recreation areas.

Enacted by Chapter 18, 1985 General Session

**4-17-11 County noxious weed control fund authorized.**

Authority is hereby granted commissions to establish and maintain a noxious weed control fund in each county for use in the administration of this chapter.

Enacted by Chapter 126, 1981 General Session